

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 28, 2015
Time of Incident:	Approximately 9:05 p.m.
Location of Incident:	XXX 106 th Place, Chicago, Illinois
Date of COPA Notification:	November 30, 2015
Time of COPA Notification:	8:56 p.m.

The complainant, Subject 1, was sitting in the passenger's seat of a vehicle when he was arrested for Drinking on the Public Way and two counts of Resisting/Obstructing Arrest. Force was used during his arrest, and Subject 1 alleges that it was excessive. COPA reviews these allegations¹ and recommends that they be Exonerated and Unfounded.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, star#: XXX, employee ID#: XXX, Date of Appointment: XX/XX/2001, Police Officer, Unit of Assignment: XXX, DOB: XX/XX/1975, Male, White
Subject #1:	Subject 1, DOB: 05/XX/1989, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. Threw Subject 1 to the ground; 2. Choked Subject 1; 3. Kicked Subject 1; 4. Punched Subject 1 in the face, all in violation of Rules 2, 8 and 9.	Exonerated Unfounded Unfounded Unfounded

¹On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy or goals or brings discredit upon the Department.
2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02-01

V. INVESTIGATION²

a. Interviews

Subject 1 provided an audio recorded statement to IPRA on December 1, 2015. He stated that on the date of the incident, he was in the area celebrating the birthday of his brother-in-law. He stated that when the police arrived, he had just gotten into a car because he was about to leave to go to a bar. He further stated that he put on his seatbelt and then looked up and saw that there was a police vehicle parked in front of the car that he was in, and a police car parked behind it. Subject 1 stated that the officers "hopped" out of their cars and instructed he and his friend, now known as Civilian 2, to put their hands up, and they complied. Subject 1 stated that one officer came to the driver's side and one came to the passenger's side. Subject 1 stated that the officers took their IDs, ran them, then came back to the car and ordered them out of the vehicle, and he asked the officers, "What did we do? What's the purpose of getting out of the car? We didn't do anything."

Despite repeatedly asking questions, Subject 1 stated that he did not receive any response. He stated that Civilian 2 was asking similar questions of the officers and one of the officers opened Civilian 2's door and pulled him out of the car. Subject 1 stated that he was ordered out of the car by one of the officers, but he stayed in the car because he was nervous and had not been told what he did wrong. Subject 1 stated that the officer told him eventually that cannabis found on Civilian 2 and the car was going to be "repossessed."³ After about 3-5 minutes, Subject 1 stated that a couple of officers pulled him out of the car after Officer A placed a handcuff on his right wrist.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Based on the totality of the circumstances, it is likely that the officers were impounding the vehicle, not repossessing it.

Once out of the vehicle, Subject 1 stated that he heard an officer yell, “resisting arrest!” and 10-12 officers then wrestled him to the ground and an officer, who he believed was Officer A, then punched him in the face. Subject 1 further stated that other officers kicked him and a light-skinned black officer choked him.⁴

Civilian 3, Subject 1’s girlfriend provided an audio recorded to IPRA on December 1, 2015. She stated, in summary, that she was at the same family gathering as Subject 1 on the date in question. She stated that Subject 1 and Civilian 2 were seated in a vehicle and police officers from two separate police cars approached the vehicle and surrounded it. Civilian 3 further stated that she witnessed officers pull Civilian 2 out of the vehicle. She stated that she saw Officer A open the passenger door and put a handcuff on Subject 1 and pull on his body repeatedly. She stated that Subject 1 was standing against the vehicle and the officers kept saying that Subject 1 was resisting, when an officer either tripped him or pushed him down to the ground. She stated that at that point at least 10 officers jumped on top of him and a female officer was kicking Subject 1 in his face. She stated that the officers kept telling Subject 1 to stop resisting, even though he was not resisting. She stated that she saw Officer A choke Subject 1 and another officer punch him. She stated that there were injuries to Subject 1’s face and wrist from the incident.⁵

b. Documentary Evidence

The Arrest Report, CB XXX, of Subject 1⁶ indicates that he was arrested for Drinking on the Public Way and two counts of Resisting/Obstructing Arrest. The narrative of the Arrest Report indicates that Subject 1 repeatedly refused lawful orders and Officer A utilized an armbar, emergency takedown and emergency cuffing techniques to place Subject 1 under arrest.⁷

The Original Case Incident Report, RD XXX, narrative mirrors that of the Arrest Report.⁸

The Tactical Response Report (TRR) for Officer A, indicates that Subject 1 transitioned from a passive resister to an active resister, and Officer A utilized an emergency takedown/cuffing procedure. The TRR reflects an interview with Subject 1 in which he stated that his right wrist and jaw hurt, and he refused medical treatment.⁹

c. Additional Evidence

Medical Records from Westlake Hospital indicate that Subject 1 was seen on November 30, 2015, he presented with complaints after an assault by police, according to the records and he was prescribed Ibuprofen 600 mg.¹⁰

⁴ Attachments 20, 27

⁵ Attachments 21, 25

⁶ Subject 1’s first name is spelled incorrectly on CPD documents.

⁷ Attachment 4

⁸ Attachment 6

⁹ Attachment 7

¹⁰ Attachment 24

On March 9, 2016, Subject 1 was found guilty on one count of Resisting/Obstructing¹¹.

VI. ANALYSIS

Based on the totality of circumstances, COPA must examine whether Officer A's actions violated CPD's Use of Force policy as codified in November 2015. At the time of this incident, the directive General Order 03-02-01 controlled the various level of force options and the appropriate level of force a Department member may use when interacting with a subject. The directive outlined the level of force options appropriate based on whether the subject was cooperative, resistive, or an assailant. A resister is an individual who is uncooperative and is further divided into two categories: passive and active. A passive resister fails to comply with verbal commands or other directions but fails to comply by *non-movement*. An active resister is an individual whose physical actions are an attempt to avoid physical control or evade arrest. Examples of this type of resistance include evasive "movements of the arm" through "flailing arms, to fully flight by running." When an individual is an active resister, a department member may use a variety of methods to bring an active resister under control, such as "stunning." This allows a department member to use diffused pressure striking or slapping in attempt to increase control over the individual by interfering with the individual's ability to resist.

In this instance, it is appropriate to characterize Subject 1 initially as a passive resister when he refused to exit the vehicle. When Officer A placed the handcuff on Subject 1 and Subject 1 pulled away, his actions elevated him to an active resister. By his own admission Subject 1 was non-compliant, because he believed that he did not have to adhere to Officer A's orders. Moreover, based on Subject 1's actions, the use of the armbar and emergency takedown by Officer A were within policy in order to effectuate the arrest. Any injuries sustained by Subject 1 were commensurate with the takedown and armbar as reported by Officer A. Although Subject 1 went to the hospital two days after the incident, when he was in CPD custody, he refused medical treatment when it was offered. COPA reasons that if his injuries were severe and amounted to more than soreness, Subject 1 would have asked to be seen by medical personnel while in custody.

While not definitive proof that Subject 1 was Resisting/Obstructing Officer A, the court's decision in its guilty finding and sentencing of Subject 1 for Resisting/Obstructing was persuasive in COPA's recommendations with respect to its findings. COPA does not recommend serving allegations against Officer A, and recommends that the current allegations be Exonerated and Unfounded¹².

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

¹¹ Subject 1 was found guilty under Cook County Circuit Court case number XXX.

¹² Based on COPA's review of the evidence, COPA did not find any credible evidence that supported any misconduct with any of the other officers involved in Subject 1's arrest.

Officer	Allegation	Finding
Officer A	1. Threw Subject 1 to the ground. 2. Choked Subject 1. 3. Kicked Subject 1. 4. Punched Subject 1 in the face, all in violation of Rules 2, 8 and 9.	Exonerated Unfounded Unfounded Unfounded

Approved:

XXX

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XXX
Investigator:	XXX
Supervising Investigator:	XXX
Deputy Chief Administrator:	XXX